

AMENDED IN SENATE AUGUST 20, 2014

AMENDED IN SENATE JULY 2, 2014

AMENDED IN SENATE JUNE 17, 2014

AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY MARCH 19, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

ASSEMBLY BILL

No. 1839

Introduced by Assembly Members Gatto and Bocanegra

(Principal coauthors: Assembly Members Allen, Bloom, Bonta, Brown, Ian Calderon, Campos, Dababneh, Garcia, Gorell, Hall, Muratsuchi, V. Manuel Pérez, Rendon, and Wilk)

(Principal coauthors: Senators Lieu and Padilla)

(Coauthors: Assembly Members Achadjian, Alejo, Ammiano, Bigelow, Bradford, Chávez, Cooley, Dahle, Daly, Dickinson, Fox, Beth Gaines, Gonzalez, Gray, Hagman, Harkey, Roger Hernández, Holden, Jones, Jones-Sawyer, Levine, Linder, Logue, Lowenthal, Maienschein, Medina, Melendez, Mullin, Nestande, Pan, Patterson, Perea, Quirk, Quirk-Silva, Rodriguez, Ting, Waldron, Weber, Wieckowski, and Williams)

(Coauthors: Senators Berryhill, Correa, Gaines, Galgiani, Huff, Knight, Liu, *Morrell*, Pavley, Torres, Walters, and Wyland)

February 18, 2014

An act to amend Section 23036 of, to add Sections 38.9, 17053.95, and 23695 to, and to repeal and amend Section 6902.5 of, the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 1839, as amended, Gatto. Income taxes: qualified motion pictures.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by those laws, including a credit against those taxes for taxable years beginning on or after January 1, 2011, in an amount equal to an applicable percentage of either 20% or 25%, respectively, of the qualified expenditures, as defined, attributable to the production of a qualified motion picture in California, or, where the qualified motion picture is a television series that relocated to California or is an independent film, as provided. Existing law imposes specified duties on the California Film Commission related to the administration of the credits, including a requirement to allocate the tax credits until July 1, 2017, and limits the aggregate amount of credits that may be allocated to qualified motion pictures in any fiscal year to \$100,000,000 through the 2016–17 fiscal year. Existing law, for taxable years beginning on or after January 1, 2011, in lieu of the credits authorized under the Personal Income Tax Law and the Corporation Tax Law for qualified motion pictures described above, also allows a credit against qualified state sales and use taxes, as provided.

~~Existing law, including the Corporation Tax Law, law~~ provides for a tentative minimum tax and further provides that, except for specified credits, no other credit shall reduce the tax imposed below the tentative minimum tax.

This bill would establish similar credits under the Personal Income Tax Law and the Corporation Tax Law for taxable years beginning on or after January 1, 2016, to be allocated by the California Film Commission ~~on and~~ or after January 1, 2015, and before July 1, ~~2021~~ 2019. This bill would, as compared to the existing tax credits, extend the scope of the credits for a qualified motion picture to the applicable percentage of qualified expenditures up to \$100,000,000, would extend the credit to qualified expenditures for television pilot episodes, qualified expenditures for qualified visual effects, and qualified expenditures relating to music scoring and music track recording by musicians, would provide limited credit allocation priority for specified television series, and would determine an applicable percentage of 25% or 20% for qualified expenditures for television series relocating to California based on the number of years the series has received the credit since relocation to California and where in California photography occurs. This bill

would limit the aggregate amount of these new credits to be allocated in each fiscal year to ~~an unspecified amount, \$400 million, and would also set aside specific credit allocation amounts for each fiscal year for independent films and for television series that relocate to California.~~ *would, subject to a computation and ranking of applicants based on the jobs ratio, as defined, require the California Film Commission to allocate credit amounts subject to specified categories of qualified motion pictures.* This bill would, for taxable years beginning on or after January 1, 2016, in lieu of the credits authorized under the Personal Income Tax Law and the Corporation Tax Law for qualified motion pictures described above, allow a credit against qualified state sales and use taxes, as provided. This bill would also require the Legislative Analyst's Office to prepare reports related to the effectiveness and administration of the qualified motion picture credit under the Sales and Use Tax Law, the Personal Income Tax Law, and the Corporation Tax Law.

This bill would, for taxable years, beginning on or after January 1, 2016, additionally allow the credit under the Corporation Tax Law for qualified expenditures for the production of qualified motion pictures to reduce the tentative minimum tax.

This bill would also make findings and declarations related to the entertainment industry, and would urge the United States Congress and the International Trade Commission to investigate and impose sanctions on specified motion picture productions and elements of production to combat unfair and illegal competition.

Existing constitutional provisions require that a statute that limits the right of access to the meetings of public bodies or the writings of public officials and agencies be adopted with findings demonstrating the interest protected by the limitation and the need for protecting that interest.

This bill would make legislative findings to that effect.

The bill would state that its provisions are severable.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

1 (a) *There has been no greater ambassador for the State of*
2 *California than its artistic output, inspiring generations to dream*
3 *about the bounty of this golden state, driving a modern gold rush*
4 *of those who came here to be a part of that California dream, as*
5 *they had done during the Gold Rush and the Dust Bowl migrations*
6 *during previous generations.*

7 (b) *California's artistic output is manifested in the evolution of*
8 *Hollywood, a locale internationally celebrated as the home of the*
9 *entertainment industry, having established itself as a filmmaking*
10 *locale by the early 1900s.*

11 (c) *Hollywood's cultural output is a primary reason why*
12 *California emerged as a thought leader in the United States, and*
13 *around the world.*

14 (d) *The benefits of a healthy entertainment industry manifest*
15 *themselves in healthy employment markets, healthy tourism, healthy*
16 *local economies, and healthy family units.*

17 (e) *However, since 1997, other states and nations have sought*
18 *to lure the economic activity, tax revenue, workforce, and renown*
19 *that are concomitant to the industry.*

20 (f) *California's entertainment workforce has been steadily*
21 *eroding for more than a decade, forcing thousands of Californians*
22 *to temporarily or permanently relocate, leaving their families and*
23 *communities behind.*

24 (g) *The exodus of the film industry has hurt related businesses*
25 *that provide the motion picture industry with specialized services,*
26 *equipment, and facilities.*

27 (h) *The visual effects industry is a highly qualified and highly*
28 *skilled sector of the entertainment industry that is becoming*
29 *increasingly significant as films become more technical in nature.*

30 (i) *In search of subsidy programs that specifically target special*
31 *effects, visual effects, and virtual photography, many*
32 *California-based companies have opened international offices to*
33 *compete for tax incentives offered in those jurisdictions.*

34 (j) *California, and the United States as a whole, is facing*
35 *growing competition from international governments that have*
36 *implemented aggressive tax rebates and initiatives that have lured*
37 *tens of thousands of jobs associated with film production,*
38 *postproduction, visual effects, and music scoring abroad.*

39 (k) *The federal International Trade Commission exercises broad*
40 *authority to investigate the effects of subsidized imports on*

1 *domestic industries, to conduct global safeguard investigations,*
2 *and to protect domestic industries from unfair acts in importation.*

3 *(l) It is the intent of the Legislature to urge the United States*
4 *Congress and the International Trade Commission to investigate*
5 *aggressively and impose sanctions, including tariffs, on*
6 *productions and elements of production, including visual effects,*
7 *virtual photography, and music scoring, that are digitally*
8 *distributed and electronically transmitted, in its definition of*
9 *“articles” protected by the Tariff Act, to combat unfair and illegal*
10 *competition from international parties.*

11 *(m) A central focus of this Legislature has been developing*
12 *policies to help California climb out of the great recession and*
13 *put families back to work. In order to halt the steady outward*
14 *march of jobs and creativity, California must have a robust, smart,*
15 *and efficient tax incentive program that guarantees job growth*
16 *and economic expansion, coupled with strong accountability and*
17 *transparency measures. Towards this end, California’s tax credits*
18 *for film and television must be reformed to ensure that California’s*
19 *taxpayers receive the maximum possible economic return on their*
20 *investment. It is the intent of this legislation to replace the*
21 *program’s current arbitrary lottery system with a competitive and*
22 *accountable system that ranks tax credit applications according*
23 *to net new jobs created and overall positive and sustained*
24 *economic impacts for the entire state.*

25 **SECTION 1.**

26 **SEC. 2.** Section 38.9 is added to the Revenue and Taxation
27 Code, to read:

28 38.9. (a) On or before July 1, 2019, the Legislative Analyst’s
29 Office shall provide to the Assembly Committee on Revenue and
30 Taxation, the Senate Committee on Governance and Finance, and
31 the public a report evaluating the economic effects and
32 administration of the tax credits allowed pursuant to Sections
33 6902.5, as amended by the act adding this section, 17053.95, and
34 23695. In researching the reports, the Legislative Analyst’s Office
35 may do all of the following:

36 (1) Request and receive all information provided to the
37 California Film Commission pursuant to subdivision (g) of Sections
38 17053.95 and 23695.

(2) Request and receive all information provided to the Franchise Tax Board relating to the sale or assignment of credits pursuant to subdivision (c) of Sections 17053.95 and 23695.

(3) Request and receive all information provided to the board pursuant to subdivisions (c) and (g) of Section 6902.5, as amended by the act adding this section.

(b) The California Film Commission, the board, the Franchise Tax Board, the Employment Development Department, and all other relevant state agencies shall provide additional information, as specified by the Legislative Analyst's Office, as needed to research the reports required by this section.

(c) (1) The information received by the Legislative Analyst's Office pursuant to this section shall be considered confidential taxpayer information subject to Sections 7056, 7056.5, and 19542 of this code and Section 1094 of the Unemployment Insurance Code, and shall be subject to the appropriate confidentiality requirements of the participating state agency.

(2) The Legislative Analyst's Office may publish statistics in conjunction with the reports required by this section that are derived from information provided to the Legislative Analyst's Office pursuant to this section, if the published statistics are classified to prevent the identification of particular taxpayers, reports, and tax returns and the publication of the percentage of dividends paid by a corporation that is deductible by the recipient under Part 11 (commencing with Section 23001) of Division 2.

~~SEC. 2.~~

SEC. 3. Section 6902.5 of the Revenue and Taxation Code, as added by Section 1 of Chapter 10 of the Third Extraordinary Session of the Statutes of 2009, is repealed.

~~SEC. 3.~~

SEC. 4. Section 6902.5 of the Revenue and Taxation Code, as added by Section 1 of Chapter 17 of the Third Extraordinary Session of the Statutes of 2009, is amended to read:

6902.5. (a) For the purposes of this section:

(1) "Qualified taxpayer" means a person who is a qualified taxpayer within the meaning of paragraph (17) of subdivision (b) of Section 17053.85, 17053.95, 23685, or 23695.

(2) "Affiliate" means a qualified taxpayer's affiliated corporation that has been assigned any portion of the credit amount by the

1 qualified taxpayer pursuant to subdivision (c) of Section 23685 or
2 subdivision (c) of Section 23695.

3 (3) “Credit amount” means an amount equal to the tax credit
4 amount that would otherwise be allowed to a qualified taxpayer
5 pursuant to Section 17053.85, 17053.95, 23685, or 23695 but for
6 the election made pursuant to this section.

7 (4) “Production period” means the production period as defined
8 in paragraph (12) of subdivision (b) of Section 17053.85, 17053.95,
9 23685, or 23695.

10 (5) (A) “Qualified sales and use taxes” means any state sales
11 and use taxes imposed by Part 1 (commencing with Section 6001),
12 on the operative date of the act adding this section.

13 (B) Notwithstanding subparagraph (A), “qualified sales and use
14 taxes” does not mean taxes imposed by Section 6051.2, 6051.5,
15 6201.2, 6201.5, Part 1.5 (commencing with Section 7200), Part
16 1.6 (commencing with Section 7251), or Section 35 of Article XIII
17 of the California Constitution.

18 (b) (1) A qualified taxpayer may, in lieu of claiming the credit
19 allowed by Section 17053.85, 17053.95, 23685, or 23695 make
20 an irrevocable election to apply the credit amount against qualified
21 sales and use taxes imposed on the qualified taxpayer in accordance
22 with this section.

23 (2) An affiliate may, in lieu of claiming the assigned portion of
24 the credit allowed by Section 23685 or 23695, make an irrevocable
25 election to apply the assigned portion of the credit amount against
26 qualified sales and use taxes imposed on the affiliate in accordance
27 with this section.

28 (c) (1) A qualified taxpayer or affiliate shall submit to the board
29 an irrevocable election, in a form as prescribed by the board, which
30 shall include, but not be limited to, the following information:

31 (A) Representation that the claimant is a qualified taxpayer or
32 an affiliate.

33 (B) Statement of the dates on which the production period began
34 and ended.

35 (C) The credit amount, and if an affiliate, the portion of the
36 credit amount assigned to it and documentation supporting the
37 assignment of that portion of the credit amount.

38 (D) The amount of qualified sales and use taxes the claimant
39 remitted to the board during the period commencing on the first
40 day of the calendar quarter commencing immediately before the

1 beginning of the production period, and ending on the date the
2 claimant was required to file its most recent sales and use tax return
3 with the board.

4 (E) A copy of the credit certificate issued pursuant to
5 subparagraph (C) of paragraph (2) of subdivision (g) of Section
6 17053.85 or 23685 or subparagraph (D) of paragraph (2) of
7 subdivision (g) of Section 17053.95 or 23695.

8 (2) The election shall be filed on or before the date on which
9 the qualified taxpayer or affiliate would first be allowed to claim
10 a credit pursuant to Section 17053.85, 17053.95, 23685, or 23695
11 on its tax return.

12 (d) (1) The claimant may elect to obtain a refund of qualified
13 sales and use taxes paid during the period described in
14 subparagraph (D) of paragraph (1) of subdivision (c). If the
15 claimant elects to obtain a refund of qualified sales and use taxes,
16 the claimant shall file a claim for refund with the irrevocable
17 election described in subdivision (c). The refund amount shall not
18 exceed, for a qualified taxpayer, the credit amount, or for an
19 affiliate, the portion of the credit amount assigned to it.

20 (2) No interest shall be paid on any amount refunded or credited
21 pursuant to paragraph (1).

22 (e) If the claimant does not elect to obtain a refund or in the
23 case where the credit amount, or assigned portion, exceeds the
24 amount of its claim for refund for the qualified sales and use taxes,
25 the claimant may, for the reporting periods in the five years
26 following the last reporting period as described in subparagraph
27 (D) of paragraph (1) of subdivision (c), offset any remaining credit
28 amount, or assigned portion, against the qualified sales and use
29 taxes imposed during those reporting periods.

30 (f) Section 6961 shall apply to any refund, or part thereof, that
31 is erroneously made and any credit, or part thereof, that is
32 erroneously allowed pursuant to this section.

33 (g) The board shall provide an annual listing to the Franchise
34 Tax Board, in a form and manner agreed upon by the board and
35 the Franchise Tax Board, of the qualified taxpayers, or affiliates
36 that have been assigned a portion of the credit allowed under
37 Section 23685 pursuant to subdivision (c) of Section 23685 or
38 Section 23695 pursuant to subdivision (c) of Section 23695, who,
39 during the year, have made an irrevocable election pursuant to this

1 section and the credit amount, or portion of the credit amount,
2 claimed by each qualified taxpayer or affiliate.

3 (h) The board may prescribe rules and regulations for the
4 administration of this section.

5 ~~SEC. 4.~~

6 SEC. 5. Section 17053.95 is added to the Revenue and Taxation
7 Code, to read:

8 17053.95. (a) (1) For taxable years beginning on or after
9 January 1, 2016, there shall be allowed to a qualified taxpayer a
10 credit against the "net tax," as defined in Section 17039, ~~in an~~
11 ~~amount equal to~~ *subject to a computation and ranking by the*
12 *California Film Commission in subdivision (g) and the allocation*
13 *amount categories described in subdivision (i), in an amount not*
14 *to exceed* the applicable *credit* percentage, as specified in paragraph
15 (4), of the qualified expenditures for the production of a qualified
16 motion picture in California. A credit shall not be allowed under
17 this section for any qualified expenditures for the production of a
18 motion picture in California if a credit has been claimed for those
19 same expenditures under Section 17053.85.

20 (2) The credit shall be allowed for the taxable year in which the
21 California Film Commission issues the credit certificate pursuant
22 to subdivision (g) for the qualified motion picture, but in no
23 instance prior to July 1, 2016, and shall be for the applicable
24 percentage of all qualified expenditures paid or incurred by the
25 qualified taxpayer in all taxable years for that qualified motion
26 picture.

27 (3) The amount of the credit allowed to a qualified taxpayer
28 shall be limited to the amount specified in the credit certificate
29 issued to the qualified taxpayer by the California Film Commission
30 pursuant to subdivision (g).

31 (4) For purposes of paragraphs (1) and (2), the applicable *credit*
32 percentage shall be:

33 (A) Twenty percent of the qualified expenditures attributable
34 to the production of a qualified motion picture in California,
35 including, but not limited to, a feature, up to one hundred million
36 dollars (\$100,000,000) in qualified expenditures, or a television
37 series that relocated to California that is in its second or subsequent
38 years of receiving a tax credit allocation pursuant to this section
39 or Section 17053.85.

1 (B) Twenty-five percent of the qualified expenditures
2 attributable to the production of a qualified motion picture in
3 California where the qualified motion picture is a television series
4 that relocated to California in its first year of receiving a tax credit
5 allocation pursuant to this section.

6 (C) Twenty-five percent of the qualified expenditures, up to ten
7 million dollars (\$10,000,000), attributable to the production of a
8 qualified motion picture that is an independent film.

9 (D) (i) ~~The In order to carry out clause (vii) of subparagraph~~
10 ~~(D) of paragraph (2) of subdivision (g), the California Film~~
11 ~~Commission shall increase the applicable credit percentage by 5~~
12 ~~percent, not to exceed a maximum of 25 percent, if the qualified~~
13 ~~motion picture paid or incurred outside the Los Angeles zone the~~
14 ~~qualified expenditures relating to original photography outside the~~
15 ~~Los Angeles zone. percent of qualified expenditures relating to~~
16 ~~original photography outside the Los Angeles zone.~~

17 (ii) For purposes of this subparagraph:

18 (I) “Applicable period” means the period that commences with
19 preproduction and ends when original photography concludes. The
20 applicable period includes the time necessary to strike a remote
21 location and return to the Los Angeles zone.

22 (II) “Los Angeles zone” means the area within a circle 30 miles
23 in radius from Beverly Boulevard and La Cienega Boulevard, Los
24 Angeles, California, and includes Agua Dulce, Castaic, including
25 Lake Castaic, Leo Carillo State Beach, Ontario International
26 Airport, Piru, and Pomona, including the Los Angeles County
27 Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch
28 property is within the Los Angeles zone.

29 (III) “Original photography” includes principal photography
30 and reshooting original footage.

31 (IV) “Qualified expenditures relating to original photography
32 outside the Los Angeles zone” means amounts paid or incurred
33 during the applicable period for tangible personal property
34 purchased or leased and used or consumed outside the Los Angeles
35 zone and relating to original photography outside the Los Angeles
36 zone and qualified wages paid for services performed outside the
37 Los Angeles zone and relating to original photography outside the
38 Los Angeles zone.

39 (E) Twenty-five percent of the qualified expenditures relating
40 to music scoring and music track recording by musicians

1 attributable to the production of a qualified motion picture in
2 California.

3 (F) Twenty-five percent of the qualified expenditures relating
4 to qualified visual effects *attributable to the production of a*
5 *qualified motion picture in California*.

6 (b) For purposes of this section:

7 (1) “Ancillary product” means any article for sale to the public
8 that contains a portion of, or any element of, the qualified motion
9 picture.

10 (2) “Budget” means an estimate of all expenses paid or incurred
11 during the production period of a qualified motion picture. It shall
12 be the same budget used by the qualified taxpayer and production
13 company for all qualified motion picture purposes.

14 (3) “Clip use” means a use of any portion of a motion picture,
15 other than the qualified motion picture, used in the qualified motion
16 picture.

17 (4) “Credit certificate” means the certificate issued by the
18 California Film Commission pursuant to subparagraph (C) of
19 paragraph-~~(2)~~ (3) of subdivision (g).

20 (5) (A) “Employee fringe benefits” means the amount allowable
21 as a deduction under this part to the qualified taxpayer involved
22 in the production of the qualified motion picture, exclusive of any
23 amounts contributed by employees, for any year during the
24 production period with respect to any of the following:

25 (i) Employer contributions under any pension, profit-sharing,
26 annuity, or similar plan.

27 (ii) Employer-provided coverage under any accident or health
28 plan for employees.

29 (iii) The employer’s cost of life or disability insurance provided
30 to employees.

31 (B) Any amount treated as wages under clause (i) of
32 subparagraph (A) of paragraph-~~(20)~~ (21) shall not be taken into
33 account under this paragraph.

34 (6) “Independent film” means a motion picture with a minimum
35 budget of one million dollars (\$1,000,000) that is produced by a
36 company that is not publicly traded and publicly traded companies
37 do not own, directly or indirectly, more than 25 percent of the
38 producing company.

1 (7) “Jobs ratio” means the amount of qualified wages paid to
2 qualified individuals divided by the amount of tax credit, as
3 computed by the California Film Commission.

4 ~~(7)~~

5 (8) “Licensing” means any grant of rights to distribute the
6 qualified motion picture, in whole or in part.

7 ~~(8)~~

8 (9) “New use” means any use of a motion picture in a medium
9 other than the medium for which it was initially created.

10 ~~(9)~~

11 (10) “Pilot for a new television series” means the initial episode
12 produced for a proposed television series.

13 ~~(10)~~

14 (11) (A) “Postproduction” means the final activities in a
15 qualified motion picture’s production, including editing, foley
16 recording, automatic dialogue replacement, sound editing, scoring,
17 music track recording by musicians and music editing, beginning
18 and end credits, negative cutting, negative processing and
19 duplication, the addition of sound and visual effects, sound mixing,
20 film-to-tape transfers, encoding, and color correction.

21 (B) “Postproduction” does not include the manufacture or
22 shipping of release prints or their equivalent.

23 ~~(11)~~

24 (12) “Preproduction” means the process of preparation for actual
25 physical production which begins after a qualified motion picture
26 has received a firm agreement of financial commitment, or is
27 greenlit, with, for example, the establishment of a dedicated
28 production office, the hiring of key crew members, and includes,
29 but is not limited to, activities that include location scouting and
30 execution of contracts with vendors of equipment and stage space.

31 ~~(12)~~

32 (13) “Principal photography” means the phase of production
33 during which the motion picture is actually shot, as distinguished
34 from preproduction and postproduction.

35 ~~(13)~~

36 (14) “Production period” means the period beginning with
37 preproduction and ending upon completion of postproduction.

38 ~~(14)~~

39 (15) “Qualified entity” means a personal service corporation as
40 defined in Section 269A(b)(1) of the Internal Revenue Code, a

1 payroll services corporation, or any entity receiving qualified wages
2 with respect to services performed by a qualified individual.

3 ~~(15)~~

4 (16) “Qualified expenditures” means amounts paid or incurred
5 for tangible personal property purchased or leased, and used, within
6 this state in the production of a qualified motion picture and
7 payments, including qualified wages, for services performed within
8 this state in the production of a qualified motion picture.

9 ~~(16)~~

10 (17) (A) “Qualified individual” means any individual who
11 performs services during the production period in an activity related
12 to the production of a qualified motion picture.

13 (B) “Qualified individual” shall not include either of the
14 following:

15 (i) Any individual related to the qualified taxpayer as described
16 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
17 Revenue Code.

18 (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of
19 the Internal Revenue Code, of the qualified taxpayer.

20 ~~(17)~~

21 (18) (A) “Qualified motion picture” means a motion picture
22 that is produced for distribution to the general public, regardless
23 of medium, that is one of the following:

24 (i) A feature with a minimum production budget of one million
25 dollars (\$1,000,000).

26 (ii) A movie of the week or miniseries with a minimum
27 production budget of five hundred thousand dollars (\$500,000).

28 (iii) A new television series of episodes longer than 40 minutes
29 each of running time, exclusive of commercials, that is produced
30 in California, with a minimum production budget of one million
31 dollars (\$1,000,000) per episode.

32 (iv) An independent film.

33 (v) A television series that relocated to California.

34 (vi) A pilot for a new television series that is longer than 40
35 minutes of running time, exclusive of commercials, that is produced
36 in California, and with a minimum production budget of one
37 million dollars (\$1,000,000).

38 (B) To qualify as a “qualified motion picture,” all of the
39 following conditions shall be satisfied:

1 (i) At least 75 percent of the principal photography days occur
2 wholly in California or 75 percent of the production budget is
3 incurred for payment for services performed within the state and
4 the purchase or rental of property used within the state.

5 (ii) Production of the qualified motion picture is completed
6 within 30 months from the date on which the qualified taxpayer's
7 application is approved by the California Film Commission. For
8 purposes of this section, a qualified motion picture is "completed"
9 when the process of postproduction has been finished.

10 (iii) The copyright for the motion picture is registered with the
11 United States Copyright Office pursuant to Title 17 of the United
12 States Code.

13 (iv) Principal photography of the qualified motion picture
14 commences after the date on which the application is approved by
15 the California Film Commission, but no later than 180 days after
16 the date of that approval unless death, disability, or disfigurement
17 of the director or of a principal cast member, an act of God,
18 including, but not limited to, fire, flood, earthquake, storm,
19 hurricane, or other natural disaster, terrorist activities, or
20 government sanction has directly prevented a production's ability
21 to begin principal photography within the prescribed 180-day
22 commencement period.

23 (C) For the purposes of subparagraph (A), in computing the
24 total wages paid or incurred for the production of a qualified
25 motion picture, all amounts paid or incurred by all persons or
26 entities that share in the costs of the qualified motion picture shall
27 be aggregated.

28 (D) "Qualified motion picture" shall not include commercial
29 advertising, music videos, a motion picture produced for private
30 noncommercial use, such as weddings, graduations, or as part of
31 an educational course and made by students, a news program,
32 current events or public events program, talk show, game show,
33 sporting event or activity, awards show, telethon or other
34 production that solicits funds, reality television program, clip-based
35 programming if more than 50 percent of the content is comprised
36 of licensed footage, documentaries, variety programs, daytime
37 dramas, strip shows, one-half hour (air time) episodic television
38 shows, or any production that falls within the recordkeeping
39 requirements of Section 2257 of Title 18 of the United States Code.

40 (18)

1 (19) (A) “Qualified taxpayer” means a taxpayer who has paid
2 or incurred qualified expenditures, *participated in the Career*
3 *Readiness requirement*, and has been issued a credit certificate by
4 the California Film Commission pursuant to subdivision (g).

5 (B) In the case of any pass-thru entity, the determination of
6 whether a taxpayer is a qualified taxpayer under this section shall
7 be made at the entity level and any credit under this section is not
8 allowed to the pass-thru entity, but shall be passed through to the
9 partners or shareholders in accordance with applicable provisions
10 of Part 10 (commencing with Section 17001) or Part 11
11 (commencing with Section 23001). For purposes of this paragraph,
12 “pass-thru entity” means any entity taxed as a partnership or “S”
13 corporation.

14 ~~(19)~~

15 (20) “Qualified visual effects” means visual effects where at
16 least 75 percent or a minimum of ten million dollars (\$10,000,000)
17 of the qualified expenditures for the visual effects is paid or
18 incurred in California.

19 ~~(20)~~

20 (21) (A) “Qualified wages” means all of the following:

21 (i) Any wages subject to withholding under Division 6
22 (commencing with Section 13000) of the Unemployment Insurance
23 Code that were paid or incurred by any taxpayer involved in the
24 production of a qualified motion picture with respect to a qualified
25 individual for services performed on the qualified motion picture
26 production within this state.

27 (ii) The portion of any employee fringe benefits paid or incurred
28 by any taxpayer involved in the production of the qualified motion
29 picture that are properly allocable to qualified wage amounts
30 described in clauses (i), (iii), and (iv).

31 (iii) Any payments made to a qualified entity for services
32 performed in this state by qualified individuals within the meaning
33 of paragraph ~~(16)~~ (17).

34 (iv) Remuneration paid to an independent contractor who is a
35 qualified individual for services performed within this state by that
36 qualified individual.

37 (B) “Qualified wages” shall not include any of the following:

38 (i) Expenses, including wages, related to new use, reuse, clip
39 use, licensing, secondary markets, or residual compensation, or

1 the creation of any ancillary product, including, but not limited to,
2 a soundtrack album, toy, game, trailer, or teaser.

3 (ii) Expenses, including wages, paid or incurred with respect to
4 acquisition, development, turnaround, or any rights thereto.

5 (iii) Expenses, including wages, related to financing, overhead,
6 marketing, promotion, or distribution of a qualified motion picture.

7 (iv) Expenses, including wages, paid per person per qualified
8 motion picture for writers, directors, music directors, music
9 composers, music supervisors, producers, and performers, other
10 than background actors with no scripted lines.

11 ~~(21)~~

12 (22) “Residual compensation” means supplemental
13 compensation paid at the time that a motion picture is exhibited
14 through new use, reuse, clip use, or in secondary markets, as
15 distinguished from payments made during production.

16 ~~(22)~~

17 (23) “Reuse” means any use of a qualified motion picture in the
18 same medium for which it was created, following the initial use
19 in that medium.

20 ~~(23)~~

21 (24) “Secondary markets” means media in which a qualified
22 motion picture is exhibited following the initial media in which it
23 is exhibited.

24 ~~(24)~~

25 (25) “Television series that relocated to California” means a
26 television series, without regard to episode length or initial media
27 exhibition, with a minimum production budget of one million
28 dollars (\$1,000,000) per episode, that filmed no fewer than its most
29 recent two seasons outside of California *or has filmed all seasons*
30 *outside of California* and for which the taxpayer certifies that the
31 credit provided pursuant to this section is the primary reason for
32 relocating to California.

33 ~~(25)~~

34 (26) “Visual effects” means the creation, alteration, or
35 enhancement of images that cannot be captured on a set or location
36 during live action photography and therefore is accomplished in
37 postproduction. It includes, but is not limited to, matte paintings,
38 animation, set extensions, computer-generated objects, characters
39 and environments, compositing (combining two or more elements
40 in a final image), and wire removals. “Visual effects” does not

1 include fully animated projects, whether created by traditional or
2 digital means.

3 (c) (1) Notwithstanding any other law, a qualified taxpayer
4 may sell any credit allowed under this section that is attributable
5 to an independent film, as defined in paragraph (6) of subdivision
6 (b), to an unrelated party.

7 (2) The qualified taxpayer shall report to the Franchise Tax
8 Board prior to the sale of the credit, in the form and manner
9 specified by the Franchise Tax Board, all required information
10 regarding the purchase and sale of the credit, including the social
11 security or other taxpayer identification number of the unrelated
12 party to whom the credit has been sold, the face amount of the
13 credit sold, and the amount of consideration received by the
14 qualified taxpayer for the sale of the credit.

15 (3) In the case where the credit allowed under this section
16 exceeds the “net tax,” the excess credit may be carried over to
17 reduce the “net tax” in the following taxable year, and succeeding
18 five taxable years, if necessary, until the credit has been exhausted.

19 (4) A credit shall not be sold pursuant to this subdivision to
20 more than one taxpayer, nor may the credit be resold by the
21 unrelated party to another taxpayer or other party.

22 (5) A party that has acquired tax credits under this ~~section~~
23 *subdivision* shall be subject to the requirements of this section.

24 (6) In no event may a qualified taxpayer assign or sell any tax
25 credit to the extent the tax credit allowed by this section is claimed
26 on any tax return of the qualified taxpayer.

27 (7) In the event that both the taxpayer originally allocated a
28 credit under this section by the California Film Commission and
29 a taxpayer to whom the credit has been sold both claim the same
30 amount of credit on their tax returns, the Franchise Tax Board may
31 disallow the credit of either taxpayer, so long as the statute of
32 limitations upon assessment remains open.

33 (8) Chapter 3.5 (commencing with Section 11340) of Part 1 of
34 Division 3 of Title 2 of the Government Code does not apply to
35 any standard, criterion, procedure, determination, rule, notice, or
36 guideline established or issued by the Franchise Tax Board
37 pursuant to this subdivision.

38 (9) Subdivision (g) of Section 17039 shall not apply to any
39 credit sold pursuant to this subdivision.

(10) For purposes of this subdivision, the unrelated party or parties that purchase a credit pursuant to this subdivision shall be treated as a qualified taxpayer pursuant to paragraph (1) of subdivision (a).

(d) (1) No credit shall be allowed pursuant to this section unless the qualified taxpayer provides the following to the California Film Commission:

~~(1)~~

(A) Identification of each qualified individual.

~~(2)~~

(B) The specific start and end dates of production.

~~(3)~~

(C) The total wages paid.

~~(4)~~

~~(D) The total amount of qualified wages paid to each qualified individual.~~ *individuals.*

~~(5)~~

(E) The copyright registration number, as reflected on the certificate of registration issued under the authority of Section 410 of Title 17 of the United States Code, relating to registration of claim and issuance of certificate. The registration number shall be provided on the return claiming the credit.

~~(6)~~

(F) The total amounts paid or incurred to purchase or lease tangible personal property used in the production of a qualified motion picture.

~~(7)~~

(G) Information to substantiate its qualified expenditures.

~~(8)~~

(H) Information required by the California Film Commission under regulations promulgated pursuant to subdivision (g) necessary to verify the amount of credit claimed.

(I) Provides documentation verifying completion of the Career Readiness requirement.

(2) (A) Based on the information provided in paragraph (1), the California Film Commission shall recompute the jobs ratio previously computed in subdivision (g) and compare this recomputed jobs ratio to the jobs ratio that the qualified taxpayer previously listed on the application submitted pursuant to subdivision (g). If the California Film Commission determines that

1 *the jobs ratio has been reduced by more than 10 percent, the*
2 *California Film Commission shall reduce the amount of credit*
3 *allowed by an equal percentage, unless the qualified taxpayer*
4 *demonstrates, and the California Film Commission determines,*
5 *that reasonable cause exists for the job ratio reduction.*

6 *(B) If the California Film Commission determines that the jobs*
7 *ratio has been reduced by more than 20 percent, the California*
8 *Film Commission shall not accept an application described in*
9 *subdivision (g) from that qualified taxpayer or any member of the*
10 *qualified taxpayer's controlled group for a period of not less than*
11 *one year from the date of that determination, unless the qualified*
12 *taxpayer demonstrates, and the California Film Commission*
13 *determines, that reasonable cause exists for the job ratio reduction.*

14 *(e) (1) ~~The~~ (A) Subject to the Administrative Procedure Act*
15 *(Chapter 3.5 (commencing with Section 11340) of Part 1 of*
16 *Division 3 of Title 2 of the Government Code), the California Film*
17 *Commission shall adopt rules and regulations to implement a*
18 *Career Readiness requirement by which the California Film*
19 *Commission shall identify training and public service opportunities*
20 *that may include, but not be limited to, hiring interns, public service*
21 *announcements, and community outreach and may prescribe rules*
22 *and regulations to carry out the purposes of this section, including,*
23 *clauses (iv) and (v) of subparagraph (D) of paragraph (2) of*
24 *subdivision (g) and, including any rules and regulations necessary*
25 *to establish procedures, processes, requirements, application fee*
26 *structure, and rules identified in or required to implement this*
27 *section, including credit and logo requirements. ~~The regulations~~*
28 *~~shall include provisions to set aside a percentage of annual credit~~*
29 *~~allocations for independent films and television series relocating~~*
30 *~~to California, pursuant to subdivision (i).~~*

31 *(B) Notwithstanding any other law, prior to preparing a notice*
32 *of proposed action and prior to making any revision to the*
33 *proposed regulation other than a change that is nonsubstantial or*
34 *solely grammatical in nature pursuant to Article 6 (commencing*
35 *with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title*
36 *2 of the Government Code, the Governor's Office of Business and*
37 *Economic Development shall first approve the proposed regulation*
38 *or proposed change to a proposed regulation.*

39 *(2) (A) Implementation of this section for the 2015–16 fiscal*
40 *year is deemed an emergency and necessary for the immediate*

1 preservation of the public peace, health, and safety, or general
2 welfare and, therefore, the California Film Commission is hereby
3 authorized to adopt emergency regulations *only as* necessary to
4 implement this section during the ~~2014–15~~ 2015–16 fiscal year in
5 accordance with the rulemaking provisions of the Administrative
6 Procedure Act (Chapter 3.5 (commencing with Section 11340) of
7 Part 1 of Division 3 of Title 2 of the Government Code).

8 *(B) Nothing in this paragraph shall be construed to require the*
9 *Governor's Office of Business and Economic Development to*
10 *approve emergency regulations adopted pursuant to this*
11 *paragraph.*

12 (f) If the qualified taxpayer fails to provide the copyright
13 registration number as required in ~~paragraph (5)~~ subparagraph
14 (E) of paragraph (1) of subdivision (d), the credit shall be
15 disallowed and assessed and collected under Section 19051 until
16 the procedures are satisfied.

17 (g) For purposes of this section, the California Film Commission
18 shall do the following:

19 *(1) Subject to the requirements of subparagraphs (A) through*
20 *(E), inclusive, of paragraph (2), on or after January 1, 2015, and*
21 *before July 1, 2016, in one or more allocation periods per fiscal*
22 *year, allocate tax credits to applicants.*

23 ~~(1)~~
24 (2) On or after ~~January 1, 2015~~, July 1, 2016, and before July
25 1, ~~2021~~, 2019, in ~~one~~ two or more allocation periods per fiscal
26 year, allocate tax credits to applicants.

27 (A) Establish a procedure for applicants to file with the
28 California Film Commission a written application, on a form jointly
29 prescribed by the California Film Commission and the Franchise
30 Tax Board for the allocation of the tax credit. The application shall
31 include, but not be limited to, the following information:

32 (i) The budget for the motion picture production.

33 (ii) The number of production days.

34 (iii) A financing plan for the production.

35 (iv) The diversity of the workforce employed by the applicant,
36 including, but not limited to, the ethnic and racial makeup of the
37 individuals employed by the applicant during the production of
38 the qualified motion picture, to the extent possible.

39 (v) All members of a combined reporting group, if known at
40 the time of the application.

(vi) Financial information, if available, including, but not limited to, the most recently produced balance sheets, annual statements of profits and losses, audited or unaudited financial statements, summary budget projections or results, or the functional equivalent of these documents of a partnership or owner of a single member limited liability company that is disregarded pursuant to Section 23038. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.

(vii) The names of all partners in a partnership not publicly traded or the names of all members of a limited liability company classified as a partnership not publicly traded for California income tax purposes that have a financial interest in the applicant's qualified motion picture. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.

~~(viii) Detailed narratives, for use only by the Legislative Analyst's Office in conducting a study of the effectiveness of this credit, that describe the extent to which the credit is expected to influence or affect filming and other business location decisions, hiring decisions, salary decisions, and any other financial matters of the applicant.~~

(viii) The amount of qualified wages the applicant expects to pay to qualified individuals. The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.

(ix) The amount of tax credit requested not to exceed the applicable credit percentage described in paragraph (4) of subdivision (a). The information provided pursuant to this clause shall be confidential and shall not be subject to public disclosure.

(x) A statement establishing that the tax credit described in this section is a significant factor in the applicant's choice of location for the qualified motion picture. The statement shall include information about whether the qualified motion picture is at risk of not being filmed or specify the jurisdiction or jurisdictions in which the qualified motion picture will be located in the absence of the tax credit. The statement shall be signed by an officer or executive of the applicant.

~~(ix)~~

(xi) Any other information deemed relevant by the California Film Commission or the Franchise Tax Board.

1 (B) Establish criteria, consistent with the requirements of this
2 section, for allocating tax credits.

3 (C) Determine and designate applicants who meet the
4 requirements of this section.

5 ~~(D) (i) Except as provided in clauses (ii) and (iii), process and~~
6 ~~approve, or reject, all applications on a first-come-first-served~~
7 ~~basis.~~

8 ~~(ii) Any new television series, as described in clause (iii) of~~
9 ~~subparagraph (A) of paragraph (17) of subdivision (b), and any~~
10 ~~television series that relocated to California, as described in clause~~
11 ~~(v) of subparagraph (A) of paragraph (17) of subdivision (b), that~~
12 ~~has been approved and issued a credit allocation by the California~~
13 ~~Film Commission either under this section or Section 17053.85~~
14 ~~shall be placed at the top of the queue for an open allocation period~~
15 ~~once in each subsequent year in the life of that television series~~
16 ~~whenever credits are allocated within a fiscal year.~~

17 ~~(iii) Any new television series based on a pilot for a new~~
18 ~~television series described in paragraph (9) of subdivision (b),~~
19 ~~where that pilot has been previously approved and issued a credit~~
20 ~~allocation by the California Film Commission under this section~~
21 ~~or Section 17053.85, shall be placed at the top of the queue for an~~
22 ~~open allocation period once in the initial and in each subsequent~~
23 ~~year in the life of that television series whenever credits are~~
24 ~~allocated within a fiscal year.~~

25 *(D) (i) For purposes of allocating the credit amounts subject*
26 *to the categories described in subdivision (i) in any fiscal year,*
27 *the California Film Commission shall do all of the following:*

28 *(ii) For each allocation date and for each category, list each*
29 *applicant from highest to lowest according to the jobs ratio as*
30 *computed by the California Film Commission.*

31 *(iii) Subject to the applicable credit percentage, allocate the*
32 *credit to each applicant according to the highest jobs ratio,*
33 *working down the list, until the credit is exhausted.*

34 *(iv) Pursuant to regulations adopted pursuant to subdivision*
35 *(e), the California Film Commission may increase the jobs ratio*
36 *up to 10 percent for applications where 75 percent of the principal*
37 *photography days occur wholly in the state and 75 percent of the*
38 *production budget is incurred for payment for services performed*
39 *within the state and the purchase or rental of property used within*
40 *the state.*

1 (v) Pursuant to regulations adopted pursuant to subdivision (e),
2 in addition to the jobs ratio increase authorized by clause (iv), the
3 California Film Commission may additionally increase the jobs
4 ratio up to 10 percent for applications that will use facilities in
5 the state for at least 75 percent of the postproduction.

6 (vi) Notwithstanding any other provision, any new television
7 series, relocating television series, or any new television series
8 based on a pilot for a new television series described in paragraph
9 (9) of subdivision (b), where that pilot has been previously
10 approved and issued a credit allocation by the California Film
11 Commission either under this section or Section 23695, shall be
12 issued a credit for each subsequent year in the life of that television
13 series whenever credits are allocated within a fiscal year.

14 (vii) Subject to subparagraph (D) of paragraph (4) of
15 subdivision (a), the California Film Commission shall increase
16 the applicable credit percentage by 5 percent, not to exceed a
17 maximum of 25 percent, if the qualified motion picture paid or
18 incurred outside the Los Angeles zone the qualified expenditures
19 relating to original photography outside the Los Angeles zone.

20 (E) Subject to the annual cap ~~established as provided in~~ and the
21 allocation credit amounts based on categories described in
22 subdivision (i), allocate an aggregate amount of credits under this
23 section and Section 23695, and allocate any carryover of
24 unallocated credits from prior years ~~and the amount of any credits~~
25 ~~reduced pursuant to paragraph (2) of subdivision (d).~~

26 ~~(2)~~

27 (3) Certify tax credits allocated to qualified taxpayers.

28 (A) Establish a verification procedure for the amount of qualified
29 expenditures paid or incurred by the applicant, including, but not
30 limited to, updates to the information in subparagraph (A) of
31 paragraph ~~(1)~~ (2) of subdivision (g).

32 (B) Establish audit requirements that must be satisfied before
33 a credit certificate may be issued by the California Film
34 Commission.

35 (C) (i) Establish a procedure for a qualified taxpayer to report
36 to the California Film Commission, prior to the issuance of a credit
37 certificate, the following information:

38 (I) If readily available, a list of the states, provinces, or other
39 jurisdictions in which any member of the applicant's combined
40 reporting group in the same business unit as the qualified taxpayer

1 that, in the preceding calendar year, has produced a qualified
2 motion picture intended for release in the United States market.
3 For purposes of this clause, “qualified motion picture” shall not
4 include any episodes of a television series that were complete or
5 in production prior to July 1, 2016.

6 (II) Whether a qualified motion picture described in subclause
7 (I) was awarded any financial incentive by the state, province, or
8 other jurisdiction that was predicated on the performance of
9 primary principal photography or postproduction in that location.

10 (ii) The California Film Commission may provide that the report
11 required by this subparagraph be filed in a single report provided
12 on a calendar year basis for those qualified taxpayers that receive
13 multiple credit certificates in a calendar year.

14 (D) Issue a credit certificate to a qualified taxpayer upon
15 completion of the qualified motion picture reflecting the credit
16 amount allocated after qualified expenditures have been verified
17 *and the jobs ratio computed* under this section. The amount of
18 credit shown in the credit certificate shall not exceed the amount
19 of credit allocated to that qualified taxpayer pursuant to this section.

20 ~~(3)~~

21 (4) Obtain, when possible, the following information from
22 applicants that do not receive an allocation of credit:

23 (A) Whether the qualified motion picture that was the subject
24 of the application was completed.

25 (B) If completed, in which state or foreign jurisdiction was the
26 primary principal photography completed.

27 (C) Whether the applicant received any financial incentives
28 from the state or foreign jurisdiction to make the qualified motion
29 picture in that location.

30 ~~(4)~~

31 (5) Provide the Legislative Analyst’s Office, upon request, any
32 or all application materials or any other materials received from,
33 or submitted by, the applicants, in electronic format when available,
34 including, but not limited to, information provided pursuant to
35 clauses (i) to ~~(ix)~~, (xi) inclusive, of subparagraph (A) of paragraph
36 ~~(1)~~. (2).

37 ~~(5)~~

38 (6) The information provided to the California Film Commission
39 pursuant to this section shall constitute confidential tax information

1 for purposes of Article 2 (commencing with Section 19542) of
2 Chapter 7 of Part 10.2.

3 (h) (1) The California Film Commission shall annually provide
4 the Legislative Analyst's Office, the Franchise Tax Board, and the
5 board with a list of qualified taxpayers and the tax credit amounts
6 allocated to each qualified taxpayer by the California Film
7 Commission. The list shall include the names and taxpayer
8 identification numbers, including taxpayer identification numbers
9 of each partner or shareholder, as applicable, of the qualified
10 taxpayer.

11 (2) (A) Notwithstanding paragraph ~~(5)~~ (6) of subdivision (g),
12 the California Film Commission shall annually post on its Internet
13 Web site and make available for public release the following:

14 (i) A table which includes all of the following information: a
15 list of qualified taxpayers and the tax credit amounts allocated to
16 each qualified taxpayer by the California Film Commission, the
17 number of production days in California the qualified taxpayer
18 represented in its application would occur, the number of California
19 jobs that the qualified taxpayer represented in its application would
20 be directly created by the production, and the total amount of
21 qualified expenditures expected to be spent by the production.

22 (ii) A narrative staff summary describing the production of the
23 qualified taxpayer as well as background information regarding
24 the qualified taxpayer contained in the qualified taxpayer's
25 application for the credit.

26 (B) Nothing in this subdivision shall be construed to make the
27 information submitted by an applicant for a tax credit under this
28 section a public record.

29 (3) The California Film Commission shall provide each city
30 and county in California with an instructional guide that includes,
31 but is not limited to, a review of best practices for facilitating
32 motion picture production in local jurisdictions, resources on
33 hosting and encouraging motion picture production, and the
34 California Film Commissions' Model Film Ordinance. The
35 California Film Commission shall maintain on its Internet Web
36 site a list of initiatives by locality that encourage motion picture
37 production in regions across the state. The list shall be distributed
38 to each approved applicant for the program to highlight local
39 jurisdictions that offer incentives to facilitate film production.

(i) (1) The aggregate amount of credits that may be allocated in for any fiscal year pursuant to this section and Section 23695 shall be an amount equal to the sum of all of the following:

(A) *Three hundred million dollars (\$300,000,000) in credits for the 2015–16 fiscal year.*

~~(A) _____ dollars (\$_____)~~

(B) *Four hundred million dollars (\$400,000,000) in credits for the 2016–17 fiscal year and each fiscal year thereafter, through and including the 2020–21 2018–19 fiscal year.*

~~(B)~~

(C) The unused allocation credit amount, if any, for the preceding fiscal year.

~~(C)~~

(D) The amount of previously allocated credits not certified.

~~(2) (A) Notwithstanding the foregoing, the California Film Commission shall set aside the lesser of 10 percent of the amount specified in subparagraph (A) of paragraph (1) or twenty million dollars (\$20,000,000) of tax credits each fiscal year for independent films allocated in accordance with rules and regulations developed pursuant to subdivision (e).~~

~~(B) Notwithstanding the foregoing, the California Film Commission shall set aside up to thirty million dollars (\$30,000,000) of tax credit each fiscal year for television series that relocated to California in its first year of receiving a tax credit allocation pursuant to this section allocated in accordance with rules and regulations developed pursuant to subdivision (e).~~

~~(E) The amount of any credits reduced pursuant to paragraph (2) of subdivision (d).~~

(2) (A) *Notwithstanding the foregoing, the California Film Commission shall allocate the credit amounts subject to the following categories:*

(i) *Independent films shall be allocated 5 percent of the amount specified in paragraph (1).*

(ii) *Features shall be allocated 35 percent of the amount specified in paragraph (1).*

(iii) *Subject to clause (vi) of subparagraph (D) of paragraph (2) of subdivision (g), a relocating television series shall be allocated 20 percent of the amount specified in paragraph (1).*

(iv) *Subject to clause (vi) of subparagraph (D) of paragraph (2) of subdivision (g), a new television series, pilots for a new*

1 *television series, movies of the week, miniseries, and recurring*
2 *television series shall be allocated 40 percent of the amount*
3 *specified in paragraph (1).*

4 (B) *Within 60 days after the allocation period, any unused*
5 *amount within a category or categories shall be apportioned to*
6 *another category or categories with a higher demand.*

7 (C) *Notwithstanding the foregoing, the California Film*
8 *Commission may increase or decrease an allocation amount in*
9 *subparagraph (A) by 5 percent, if necessary, due to the jobs ratio,*
10 *the number of applications, or the allocation credit amounts*
11 *available by category compared to demand.*

12 (3) Any act that reduces the amount that may be allocated
13 pursuant to paragraph (1) constitutes a change in state taxes for
14 the purpose of increasing revenues within the meaning of Section
15 3 of Article XIII A of the California Constitution and may be
16 passed by not less than two-thirds of all Members elected to each
17 of the two houses of the Legislature.

18 (j) The California Film Commission shall have the authority to
19 allocate tax credits in accordance with this section and in
20 accordance with any regulations prescribed pursuant to subdivision
21 (e) upon adoption.

22 ~~SEC. 5.~~

23 SEC. 6. Section 23036 of the Revenue and Taxation Code is
24 amended to read:

25 23036. (a) (1) The term “tax” includes any of the following:

26 (A) The tax imposed under Chapter 2 (commencing with Section
27 23101).

28 (B) The tax imposed under Chapter 3 (commencing with Section
29 23501).

30 (C) The tax on unrelated business taxable income, imposed
31 under Section 23731.

32 (D) The tax on “S” corporations imposed under Section 23802.

33 (2) The term “tax” does not include any amount imposed under
34 paragraph (1) of subdivision (e) of Section 24667 or paragraph (2)
35 of subdivision (f) of Section 24667.

36 (b) For purposes of Article 5 (commencing with Section 18661)
37 of Chapter 2, Article 3 (commencing with Section 19031) of
38 Chapter 4, Article 6 (commencing with Section 19101) of Chapter
39 4, and Chapter 7 (commencing with Section 19501) of Part 10.2,

1 and for purposes of Sections 18601, 19001, and 19005, the term
2 “tax” also includes all of the following:

3 (1) The tax on limited partnerships, imposed under Section
4 17935, the tax on limited liability companies, imposed under
5 Section 17941, and the tax on registered limited liability
6 partnerships and foreign limited liability partnerships imposed
7 under Section 17948.

8 (2) The alternative minimum tax imposed under Chapter 2.5
9 (commencing with Section 23400).

10 (3) The tax on built-in gains of “S” corporations, imposed under
11 Section 23809.

12 (4) The tax on excess passive investment income of “S”
13 corporations, imposed under Section 23811.

14 (c) Notwithstanding any other provision of this part, credits are
15 allowed against the “tax” in the following order:

16 (1) Credits that do not contain carryover provisions.

17 (2) Credits that, when the credit exceeds the “tax,” allow the
18 excess to be carried over to offset the “tax” in succeeding taxable
19 years, except for those credits that are allowed to reduce the “tax”
20 below the tentative minimum tax, as defined by Section 23455.
21 The order of credits within this paragraph shall be determined by
22 the Franchise Tax Board.

23 (3) The minimum tax credit allowed by Section 23453.

24 (4) Credits that are allowed to reduce the “tax” below the
25 tentative minimum tax, as defined by Section 23455.

26 (5) Credits for taxes withheld under Section 18662.

27 (d) Notwithstanding any other provision of this part, each of
28 the following applies:

29 (1) A credit may not reduce the “tax” below the tentative
30 minimum tax (as defined by paragraph (1) of subdivision (a) of
31 Section 23455), except the following credits:

32 (A) The credit allowed by former Section 23601 (relating to
33 solar energy).

34 (B) The credit allowed by former Section 23601.4 (relating to
35 solar energy).

36 (C) The credit allowed by former Section 23601.5 (relating to
37 solar energy).

38 (D) The credit allowed by Section 23609 (relating to research
39 expenditures).

1 (E) The credit allowed by former Section 23609.5 (relating to
2 clinical testing expenses).

3 (F) The credit allowed by Section 23610.5 (relating to
4 low-income housing).

5 (G) The credit allowed by former Section 23612 (relating to
6 sales and use tax credit).

7 (H) The credit allowed by Section 23612.2 (relating to enterprise
8 zone sales or use tax credit).

9 (I) The credit allowed by former Section 23612.6 (relating to
10 Los Angeles Revitalization Zone sales tax credit).

11 (J) The credit allowed by former Section 23622 (relating to
12 enterprise zone hiring credit).

13 (K) The credit allowed by Section 23622.7 (relating to enterprise
14 zone hiring credit).

15 (L) The credit allowed by former Section 23623 (relating to
16 program area hiring credit).

17 (M) The credit allowed by former Section 23623.5 (relating to
18 Los Angeles Revitalization Zone hiring credit).

19 (N) The credit allowed by former Section 23625 (relating to
20 Los Angeles Revitalization Zone hiring credit).

21 (O) The credit allowed by Section 23633 (relating to targeted
22 tax area sales or use tax credit).

23 (P) The credit allowed by Section 23634 (relating to targeted
24 tax area hiring credit).

25 (Q) The credit allowed by former Section 23649 (relating to
26 qualified property).

27 (R) For taxable years beginning on or after January 1, 2011, the
28 credit allowed by Section 23685 (relating to qualified motion
29 pictures).

30 (S) For taxable years beginning on or after January 1, 2016, the
31 credit allowed by Section 23695 (relating to qualified motion
32 pictures).

33 (2) A credit against the tax may not reduce the minimum
34 franchise tax imposed under Chapter 2 (commencing with Section
35 23101).

36 (e) Any credit which is partially or totally denied under
37 subdivision (d) is allowed to be carried over to reduce the "tax"
38 in the following year, and succeeding years if necessary, if the
39 provisions relating to that credit include a provision to allow a
40 carryover of the unused portion of that credit.

1 (f) Unless otherwise provided, any remaining carryover from a
2 credit that has been repealed or made inoperative is allowed to be
3 carried over under the provisions of that section as it read
4 immediately prior to being repealed or becoming inoperative.

5 (g) Unless otherwise provided, if two or more taxpayers share
6 in costs that would be eligible for a tax credit allowed under this
7 part, each taxpayer is eligible to receive the tax credit in proportion
8 to his or her respective share of the costs paid or incurred.

9 (h) Unless otherwise provided, in the case of an “S” corporation,
10 any credit allowed by this part is computed at the “S” corporation
11 level, and any limitation on the expenses qualifying for the credit
12 or limitation upon the amount of the credit applies to the “S”
13 corporation and to each shareholder.

14 (i) (1) With respect to any taxpayer that directly or indirectly
15 owns an interest in a business entity that is disregarded for tax
16 purposes pursuant to Section 23038 and any regulations thereunder,
17 the amount of any credit or credit carryforward allowable for any
18 taxable year attributable to the disregarded business entity is limited
19 in accordance with paragraphs (2) and (3).

20 (2) The amount of any credit otherwise allowed under this part,
21 including any credit carryover from prior years, that may be applied
22 to reduce the taxpayer’s “tax,” as defined in subdivision (a), for
23 the taxable year is limited to an amount equal to the excess of the
24 taxpayer’s regular tax (as defined in Section 23455), determined
25 by including income attributable to the disregarded business entity
26 that generated the credit or credit carryover, over the taxpayer’s
27 regular tax (as defined in Section 23455), determined by excluding
28 the income attributable to that disregarded business entity. A credit
29 is not allowed if the taxpayer’s regular tax (as defined in Section
30 23455), determined by including the income attributable to the
31 disregarded business entity is less than the taxpayer’s regular tax
32 (as defined in Section 23455), determined by excluding the income
33 attributable to the disregarded business entity.

34 (3) If the amount of a credit allowed pursuant to the section
35 establishing the credit exceeds the amount allowable under this
36 subdivision in any taxable year, the excess amount may be carried
37 over to subsequent taxable years pursuant to subdivisions (d), (e),
38 and (f).

39 (j) (1) Unless otherwise specifically provided, in the case of a
40 taxpayer that is a partner or shareholder of an eligible pass-thru

entity described in paragraph (2), any credit passed through to the taxpayer in the taxpayer's first taxable year beginning on or after the date the credit is no longer operative may be claimed by the taxpayer in that taxable year, notwithstanding the repeal of the statute authorizing the credit prior to the close of that taxable year.

(2) For purposes of this subdivision, "eligible pass-thru entity" means any partnership or "S" corporation that files its return on a fiscal year basis pursuant to Section 18566, and that is entitled to a credit pursuant to this part for the taxable year that begins during the last year a credit is operative.

(3) This subdivision applies to credits that become inoperative on or after the operative date of the act adding this subdivision.

~~SEC. 6.~~

SEC. 7. Section 23695 is added to the Revenue and Taxation Code, to read:

23695. (a) (1) For taxable years beginning on or after January 1, 2016, there shall be allowed to a qualified taxpayer a credit against the "tax," as defined in Section 23036, ~~in an amount equal to~~ *subject to a computation and ranking by the California Film Commission in subdivision (g) and the allocation amount categories described in subdivision (i), in an amount not to exceed* the applicable *credit* percentage, as specified in paragraph (4), of the qualified expenditures for the production of a qualified motion picture in California. A credit shall not be allowed under this section for any qualified expenditures for the production of a motion picture in California if a credit has been claimed for those same expenditures under Section 23685.

(2) The credit shall be allowed for the taxable year in which the California Film Commission issues the credit certificate pursuant to subdivision (g) for the qualified motion picture, but in no instance prior to July 1, 2016, and shall be for the applicable percentage of all qualified expenditures paid or incurred by the qualified taxpayer in all taxable years for that qualified motion picture.

(3) The amount of the credit allowed to a qualified taxpayer shall be limited to the amount specified in the credit certificate issued to the qualified taxpayer by the California Film Commission pursuant to subdivision (g).

(4) For purposes of paragraphs (1) and (2), the applicable *credit* percentage shall be:

1 (A) Twenty percent of the qualified expenditures attributable
2 to the production of a qualified motion picture in California,
3 including, but not limited to, a feature, up to one hundred million
4 dollars (\$100,000,000) in qualified expenditures, or a television
5 series that relocated to California that is in its second or subsequent
6 years of receiving a tax credit allocation pursuant to this section
7 or Section 23685.

8 (B) Twenty-five percent of the qualified expenditures
9 attributable to the production of a qualified motion picture in
10 California where the qualified motion picture is a television series
11 that relocated to California in its first year of receiving a tax credit
12 allocation pursuant to this section.

13 (C) Twenty-five percent of the qualified expenditures, up to ten
14 million dollars (\$10,000,000), attributable to the production of a
15 qualified motion picture that is an independent film.

16 (D) (i) ~~The In order to carry out clause (vii) of subparagraph~~
17 ~~(D) of paragraph (2) of subdivision (g), the California Film~~
18 ~~Commission shall increase the applicable credit percentage by 5~~
19 ~~percent, not to exceed a maximum of 25 percent, if the qualified~~
20 ~~motion picture paid or incurred outside the Los Angeles zone the~~
21 ~~qualified expenditures relating to original photography outside the~~
22 ~~Los Angeles zone. percent of qualified expenditures relating to~~
23 ~~original photography outside the Los Angeles zone.~~

24 (ii) For purposes of this subparagraph:

25 (I) “Applicable period” means the period that commences with
26 preproduction and ends when original photography concludes. The
27 applicable period includes the time necessary to strike a remote
28 location and return to the Los Angeles zone.

29 (II) “Los Angeles zone” means the area within a circle 30 miles
30 in radius from Beverly Boulevard and La Cienega Boulevard, Los
31 Angeles, California, and includes Agua Dulce, Castaic, including
32 Lake Castaic, Leo Carillo State Beach, Ontario International
33 Airport, Piru, and Pomona, including the Los Angeles County
34 Fairgrounds. The Metro Goldwyn Mayer, Inc. Conejo Ranch
35 property is within the Los Angeles zone.

36 (III) “Original photography” includes principal photography
37 and reshooting original footage.

38 (IV) “Qualified expenditures relating to original photography
39 outside the Los Angeles zone” means amounts paid or incurred
40 during the applicable period for tangible personal property

1 purchased or leased and used or consumed outside the Los Angeles
2 zone and relating to original photography outside the Los Angeles
3 zone and qualified wages paid for services performed outside the
4 Los Angeles zone and relating to original photography outside the
5 Los Angeles zone.

6 (E) Twenty-five percent of the qualified expenditures relating
7 to music scoring and music track recording by musicians
8 attributable to the production of a qualified motion picture in
9 California.

10 (F) Twenty-five percent of the qualified expenditures relating
11 to qualified visual effects *attributable to the production of a*
12 *qualified motion picture in California*.

13 (b) For purposes of this section:

14 (1) “Ancillary product” means any article for sale to the public
15 that contains a portion of, or any element of, the qualified motion
16 picture.

17 (2) “Budget” means an estimate of all expenses paid or incurred
18 during the production period of a qualified motion picture. It shall
19 be the same budget used by the qualified taxpayer and production
20 company for all qualified motion picture purposes.

21 (3) “Clip use” means a use of any portion of a motion picture,
22 other than the qualified motion picture, used in the qualified motion
23 picture.

24 (4) “Credit certificate” means the certificate issued by the
25 California Film Commission pursuant to subparagraph (C) of
26 paragraph~~(2)~~ (3) of subdivision (g).

27 (5) (A) “Employee fringe benefits” means the amount allowable
28 as a deduction under this part to the qualified taxpayer involved
29 in the production of the qualified motion picture, exclusive of any
30 amounts contributed by employees, for any year during the
31 production period with respect to any of the following:

32 (i) Employer contributions under any pension, profit-sharing,
33 annuity, or similar plan.

34 (ii) Employer-provided coverage under any accident or health
35 plan for employees.

36 (iii) The employer’s cost of life or disability insurance provided
37 to employees.

38 (B) Any amount treated as wages under clause (i) of
39 subparagraph (A) of paragraph~~(20)~~ (21) shall not be taken into
40 account under this paragraph.

1 (6) “Independent film” means a motion picture with a minimum
2 budget of one million dollars (\$1,000,000) that is produced by a
3 company that is not publicly traded and publicly traded companies
4 do not own, directly or indirectly, more than 25 percent of the
5 producing company.

6 (7) “Jobs ratio” means the amount of qualified wages paid to
7 qualified individuals divided by the amount of tax credit, as
8 computed by the California Film Commission.

9 ~~(7)~~

10 (8) “Licensing” means any grant of rights to distribute the
11 qualified motion picture, in whole or in part.

12 ~~(8)~~

13 (9) “New use” means any use of a motion picture in a medium
14 other than the medium for which it was initially created.

15 ~~(9)~~

16 (10) “Pilot for a new television series” means the initial episode
17 produced for a proposed television series.

18 ~~(10)~~

19 (11) (A) “Postproduction” means the final activities in a
20 qualified motion picture’s production, including editing, foley
21 recording, automatic dialogue replacement, sound editing, scoring,
22 music track recording by musicians and music editing, beginning
23 and end credits, negative cutting, negative processing and
24 duplication, the addition of sound and visual effects, sound mixing,
25 film-to-tape transfers, encoding, and color correction.

26 (B) “Postproduction” does not include the manufacture or
27 shipping of release prints or their equivalent.

28 ~~(11)~~

29 (12) “Preproduction” means the process of preparation for actual
30 physical production which begins after a qualified motion picture
31 has received a firm agreement of financial commitment, or is
32 greenlit, with, for example, the establishment of a dedicated
33 production office, the hiring of key crew members, and includes,
34 but is not limited to, activities that include location scouting and
35 execution of contracts with vendors of equipment and stage space.

36 ~~(12)~~

37 (13) “Principal photography” means the phase of production
38 during which the motion picture is actually shot, as distinguished
39 from preproduction and postproduction.

40 ~~(13)~~

1 (14) “Production period” means the period beginning with
2 preproduction and ending upon completion of postproduction.

3 ~~(14)~~

4 (15) “Qualified entity” means a personal service corporation as
5 defined in Section 269A(b)(1) of the Internal Revenue Code, a
6 payroll services corporation, or any entity receiving qualified wages
7 with respect to services performed by a qualified individual.

8 ~~(15)~~

9 (16) “Qualified expenditures” means amounts paid or incurred
10 for tangible personal property purchased or leased, and used, within
11 this state in the production of a qualified motion picture and
12 payments, including qualified wages, for services performed within
13 this state in the production of a qualified motion picture.

14 ~~(16)~~

15 (17) (A) “Qualified individual” means any individual who
16 performs services during the production period in an activity related
17 to the production of a qualified motion picture.

18 (B) “Qualified individual” shall not include either of the
19 following:

20 (i) Any individual related to the qualified taxpayer as described
21 in subparagraph (A), (B), or (C) of Section 51(i)(1) of the Internal
22 Revenue Code.

23 (ii) Any 5-percent owner, as defined in Section 416(i)(1)(B) of
24 the Internal Revenue Code, of the qualified taxpayer.

25 ~~(17)~~

26 (18) (A) “Qualified motion picture” means a motion picture
27 that is produced for distribution to the general public, regardless
28 of medium, that is one of the following:

29 (i) A feature with a minimum production budget of one million
30 dollars (\$1,000,000).

31 (ii) A movie of the week or miniseries with a minimum
32 production budget of five hundred thousand dollars (\$500,000).

33 (iii) A new television series of episodes longer than 40 minutes
34 each of running time, exclusive of commercials, that is produced
35 in California, with a minimum production budget of one million
36 dollars (\$1,000,000) per episode.

37 (iv) An independent film.

38 (v) A television series that relocated to California.

39 (vi) A pilot for a new television series that is longer than 40
40 minutes of running time, exclusive of commercials, that is produced

1 in California, and with a minimum production budget of one
2 million dollars (\$1,000,000).

3 (B) To qualify as a “qualified motion picture,” all of the
4 following conditions shall be satisfied:

5 (i) At least 75 percent of the principal photography days occur
6 wholly in California or 75 percent of the production budget is
7 incurred for payment for services performed within the state and
8 the purchase or rental of property used within the state.

9 (ii) Production of the qualified motion picture is completed
10 within 30 months from the date on which the qualified taxpayer’s
11 application is approved by the California Film Commission. For
12 purposes of this section, a qualified motion picture is “completed”
13 when the process of postproduction has been finished.

14 (iii) The copyright for the motion picture is registered with the
15 United States Copyright Office pursuant to Title 17 of the United
16 States Code.

17 (iv) Principal photography of the qualified motion picture
18 commences after the date on which the application is approved by
19 the California Film Commission, but no later than 180 days after
20 the date of that approval unless death, disability, or disfigurement
21 of the director or of a principal cast member, an act of God,
22 including, but not limited to, fire, flood, earthquake, storm,
23 hurricane, or other natural disaster, terrorist activities, or
24 government sanction has directly prevented a production’s ability
25 to begin principal photography within the prescribed 180-day
26 commencement period.

27 (C) For the purposes of subparagraph (A), in computing the
28 total wages paid or incurred for the production of a qualified
29 motion picture, all amounts paid or incurred by all persons or
30 entities that share in the costs of the qualified motion picture shall
31 be aggregated.

32 (D) “Qualified motion picture” shall not include commercial
33 advertising, music videos, a motion picture produced for private
34 noncommercial use, such as weddings, graduations, or as part of
35 an educational course and made by students, a news program,
36 current events or public events program, talk show, game show,
37 sporting event or activity, awards show, telethon or other
38 production that solicits funds, reality television program, clip-based
39 programming if more than 50 percent of the content is comprised
40 of licensed footage, documentaries, variety programs, daytime

1 dramas, strip shows, one-half hour (air time) episodic television
2 shows, or any production that falls within the recordkeeping
3 requirements of Section 2257 of Title 18 of the United States Code.

4 ~~(18)~~

5 (19) (A) “Qualified taxpayer” means a taxpayer who has paid
6 or incurred qualified expenditures, *participated in the Career*
7 *Readiness requirement*, and has been issued a credit certificate by
8 the California Film Commission pursuant to subdivision (g).

9 (B) (i) In the case of any pass-thru entity, the determination of
10 whether a taxpayer is a qualified taxpayer under this section shall
11 be made at the entity level and any credit under this section is not
12 allowed to the pass-thru entity, but shall be passed through to the
13 partners or shareholders in accordance with applicable provisions
14 of Part 10 (commencing with Section 17001) or Part 11
15 (commencing with Section 23001). For purposes of this paragraph,
16 “pass-thru entity” means any entity taxed as a partnership or “S”
17 corporation.

18 (ii) In the case of an “S” corporation, the credit allowed under
19 this section shall not be used by an “S” corporation as a credit
20 against a tax imposed under Chapter 4.5 (commencing with Section
21 23800) of Part 11 of Division 2.

22 ~~(19)~~

23 (20) “Qualified visual effects” means visual effects where at
24 least 75 percent or a minimum of ten million dollars (\$10,000,000)
25 of the qualified expenditures for the visual effects is paid or
26 incurred in California.

27 ~~(20)~~

28 (21) (A) “Qualified wages” means all of the following:

29 (i) Any wages subject to withholding under Division 6
30 (commencing with Section 13000) of the Unemployment Insurance
31 Code that were paid or incurred by any taxpayer involved in the
32 production of a qualified motion picture with respect to a qualified
33 individual for services performed on the qualified motion picture
34 production within this state.

35 (ii) The portion of any employee fringe benefits paid or incurred
36 by any taxpayer involved in the production of the qualified motion
37 picture that are properly allocable to qualified wage amounts
38 described in clauses (i), (iii), and (iv).

1 (iii) Any payments made to a qualified entity for services
2 performed in this state by qualified individuals within the meaning
3 of paragraph ~~(16)~~ (17).

4 (iv) Remuneration paid to an independent contractor who is a
5 qualified individual for services performed within this state by that
6 qualified individual.

7 (B) “Qualified wages” shall not include any of the following:

8 (i) Expenses, including wages, related to new use, reuse, clip
9 use, licensing, secondary markets, or residual compensation, or
10 the creation of any ancillary product, including, but not limited to,
11 a soundtrack album, toy, game, trailer, or teaser.

12 (ii) Expenses, including wages, paid or incurred with respect to
13 acquisition, development, turnaround, or any rights thereto.

14 (iii) Expenses, including wages, related to financing, overhead,
15 marketing, promotion, or distribution of a qualified motion picture.

16 (iv) Expenses, including wages, paid per person per qualified
17 motion picture for writers, directors, music directors, music
18 composers, music supervisors, producers, and performers, other
19 than background actors with no scripted lines.

20 ~~(21)~~

21 (22) “Residual compensation” means supplemental
22 compensation paid at the time that a motion picture is exhibited
23 through new use, reuse, clip use, or in secondary markets, as
24 distinguished from payments made during production.

25 ~~(22)~~

26 (23) “Reuse” means any use of a qualified motion picture in the
27 same medium for which it was created, following the initial use
28 in that medium.

29 ~~(23)~~

30 (24) “Secondary markets” means media in which a qualified
31 motion picture is exhibited following the initial media in which it
32 is exhibited.

33 ~~(24)~~

34 (25) “Television series that relocated to California” means a
35 television series, without regard to episode length or initial media
36 exhibition, with a minimum production budget of one million
37 dollars (\$1,000,000) per episode, that filmed no fewer than its most
38 recent two seasons outside of California *or has filmed all seasons*
39 *outside of California* and for which the taxpayer certifies that the

1 credit provided pursuant to this section is the primary reason for
2 relocating to California.

3 ~~(25)~~

4 (26) “Visual effects” means the creation, alteration, or
5 enhancement of images that cannot be captured on a set or location
6 during live action photography and therefore is accomplished in
7 postproduction. It includes, but is not limited to, matte paintings,
8 animation, set extensions, computer-generated objects, characters
9 and environments, compositing (combining two or more elements
10 in a final image), and wire removals. “Visual effects” does not
11 include fully animated projects, whether created by traditional or
12 digital means.

13 (c) (1) Notwithstanding subdivision (i) of Section 23036, in
14 the case where the credit allowed by this section exceeds the
15 taxpayer’s tax liability computed under this part, a qualified
16 taxpayer may elect to assign any portion of the credit allowed
17 under this section to one or more affiliated corporations for each
18 taxable year in which the credit is allowed. For purposes of this
19 subdivision, “affiliated corporation” has the meaning provided in
20 subdivision (b) of Section 25110, as that section was amended by
21 Chapter 881 of the Statutes of 1993, as of the last day of the taxable
22 year in which the credit is allowed, except that “100 percent” is
23 substituted for “more than 50 percent” wherever it appears in the
24 section, and “voting common stock” is substituted for “voting
25 stock” wherever it appears in the section.

26 (2) The election provided in paragraph (1):

27 (A) May be based on any method selected by the qualified
28 taxpayer that originally receives the credit.

29 (B) Shall be irrevocable for the taxable year the credit is allowed,
30 once made.

31 (C) May be changed for any subsequent taxable year if the
32 election to make the assignment is expressly shown on each of the
33 returns of the qualified taxpayer and the qualified taxpayer’s
34 affiliated corporations that assign and receive the credits.

35 (D) Shall be reported to the Franchise Tax Board, in the form
36 and manner specified by the Franchise Tax Board, along with all
37 required information regarding the assignment of the credit,
38 including the corporation number, the federal employer
39 identification number, or other taxpayer identification number of
40 the assignee, and the amount of the credit assigned.

(3) (A) Notwithstanding any other law, a qualified taxpayer may sell any credit allowed under this section that is attributable to an independent film, as defined in paragraph (6) of subdivision (b), to an unrelated party.

(B) The qualified taxpayer shall report to the Franchise Tax Board prior to the sale of the credit, in the form and manner specified by the Franchise Tax Board, all required information regarding the purchase and sale of the credit, including the social security or other taxpayer identification number of the unrelated party to whom the credit has been sold, the face amount of the credit sold, and the amount of consideration received by the qualified taxpayer for the sale of the credit.

(4) In the case where the credit allowed under this section exceeds the “tax,” the excess credit may be carried over to reduce the “tax” in the following taxable year, and succeeding five taxable years, if necessary, until the credit has been exhausted.

(5) A credit shall not be sold pursuant to this subdivision to more than one taxpayer, nor may the credit be resold by the unrelated party to another taxpayer or other party.

(6) A party that has been assigned or acquired tax credits under this ~~paragraph~~ *subdivision* shall be subject to the requirements of this section.

(7) In no event may a qualified taxpayer assign or sell any tax credit to the extent the tax credit allowed by this section is claimed on any tax return of the qualified taxpayer.

(8) In the event that both the taxpayer originally allocated a credit under this section by the California Film Commission and a taxpayer to whom the credit has been sold both claim the same amount of credit on their tax returns, the Franchise Tax Board may disallow the credit of either taxpayer, so long as the statute of limitations upon assessment remains open.

(9) Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code does not apply to any standard, criterion, procedure, determination, rule, notice, or guideline established or issued by the Franchise Tax Board pursuant to this subdivision.

(10) Subdivision (i) of Section 23036 shall not apply to any credit sold pursuant to this subdivision.

(11) For purposes of this subdivision:

1 (A) An affiliated corporation or corporations that are assigned
2 a credit pursuant to paragraph (1) shall be treated as a qualified
3 taxpayer pursuant to paragraph (1) of subdivision (a).

4 (B) The unrelated party or parties that purchase a credit pursuant
5 to ~~paragraph (3)~~ *paragraphs (3) to (10), inclusive*, shall be treated
6 as a qualified taxpayer pursuant to paragraph (1) of subdivision
7 (a).

8 (d) *(1)* No credit shall be allowed pursuant to this section unless
9 the qualified taxpayer provides the following to the California
10 Film Commission:

11 ~~(1)~~

12 (A) Identification of each qualified individual.

13 ~~(2)~~

14 (B) The specific start and end dates of production.

15 ~~(3)~~

16 (C) The total wages paid.

17 ~~(4)~~

18 (D) The *total* amount of qualified wages paid to ~~each~~ qualified
19 ~~individual~~ *individuals*.

20 ~~(5)~~

21 (E) The copyright registration number, as reflected on the
22 certificate of registration issued under the authority of Section 410
23 of Title 17 of the United States Code, relating to registration of
24 claim and issuance of certificate. The registration number shall be
25 provided on the return claiming the credit.

26 ~~(6)~~

27 (F) The total amounts paid or incurred to purchase or lease
28 tangible personal property used in the production of a qualified
29 motion picture.

30 ~~(7)~~

31 (G) Information to substantiate its qualified expenditures.

32 ~~(8)~~

33 (H) Information required by the California Film Commission
34 under regulations promulgated pursuant to subdivision (g)
35 necessary to verify the amount of credit claimed.

36 (I) *Provides documentation certifying completion of the Career*
37 *Readiness requirement.*

38 (2) (A) *Based on the information provided in paragraph (1),*
39 *the California Film Commission shall recompute the jobs ratio*
40 *previously computed in subdivision (g) and compare this*

1 recomputed jobs ratio to the jobs ratio that the qualified taxpayer
2 previously listed on the application submitted pursuant to
3 subdivision (g). If the California Film Commission determines that
4 the jobs ratio has been reduced by more than 10 percent, the
5 California Film Commission shall reduce the amount of credit
6 allowed by an equal percentage, unless the qualified taxpayer
7 demonstrates, and the California Film Commission determines,
8 that reasonable cause exists for the job ratio reduction.

9 (B) If the California Film Commission determines that the jobs
10 ratio has been reduced by more than 20 percent, the California
11 Film Commission shall not accept an application described in
12 subdivision (g) from that qualified taxpayer or any member of the
13 qualified taxpayer's controlled group for a period of not less than
14 one year from the date of that determination, unless the qualified
15 taxpayer demonstrates, and the California Film Commission
16 determines, that reasonable cause exists for the job ratio reduction.

17 (e) (1) ~~The~~ (A) Subject to the Administrative Procedure Act
18 (Chapter 3.5 (commencing with Section 11340) of Part 1 of
19 Division 3 of Title 2 of the Government Code), the California Film
20 Commission shall adopt rules and regulations to implement a
21 Career Readiness requirement by which the California Film
22 Commission shall identify training and public service opportunities
23 that may include, but not be limited to, hiring interns, public service
24 announcements, and community outreach and may prescribe rules
25 and regulations to carry out the purposes of this section, including,
26 clauses (iv) and (v) of subparagraph (D) of paragraph (2) of
27 subdivision (g) and, including any rules and regulations necessary
28 to establish procedures, processes, requirements, application fee
29 structure, and rules identified in or required to implement this
30 section, including credit and logo requirements. ~~The regulations~~
31 ~~shall include provisions to set aside a percentage of annual credit~~
32 ~~allocations for independent films and television series relocating~~
33 ~~to California, pursuant to subdivision (i).~~

34 (B) Notwithstanding any other law, prior to preparing a notice
35 of proposed action and prior to making any revision to the
36 proposed regulation other than a change that is nonsubstantial or
37 solely grammatical in nature pursuant to Article 6 (commencing
38 with Section 11349) of Chapter 3.5 of Part 1 of Division 3 of Title
39 2 of the Government Code, the Governor's Office of Business and

1 *Economic Development shall first approve the proposed regulation*
2 *or proposed change to a proposed regulation.*

3 (2) (A) Implementation of this section *for the 2015–16 fiscal*
4 *year* is deemed an emergency and necessary for the immediate
5 preservation of the public peace, health, and safety, or general
6 welfare and, therefore, the California Film Commission is hereby
7 authorized to adopt emergency regulations *only as* necessary to
8 implement this section during the ~~2014–15~~ 2015–16 fiscal year in
9 accordance with the rulemaking provisions of the Administrative
10 ~~Procedures~~ Procedure Act (Chapter 3.5 (commencing with Section
11 11340) of Part 1 of Division 3 of Title 2 of the Government Code).

12 (B) *Nothing in this paragraph shall be construed to require the*
13 *Governor’s Office of Business and Economic Development to*
14 *approve emergency regulations adopted pursuant to this*
15 *paragraph.*

16 (f) If the qualified taxpayer fails to provide the copyright
17 registration number as required in ~~paragraph (5)~~ subparagraph
18 (E) of paragraph (1) of subdivision (d), the credit shall be
19 disallowed and assessed and collected under Section 19051 until
20 the procedures are satisfied.

21 (g) For purposes of this section, the California Film Commission
22 shall do the following:

23 (1) *Subject to the requirements of subparagraphs (A) through*
24 *(E), inclusive, of paragraph (2), on or after January 1, 2015, and*
25 *before July 1, 2016, in one or more allocation periods per fiscal*
26 *year, allocate tax credits to applicants.*

27 ~~(1)~~

28 (2) On or after ~~January 1, 2015~~, July 1, 2016, and before July
29 1, ~~2021~~, 2019, in ~~one~~ two or more allocation periods per fiscal
30 year, allocate tax credits to applicants.

31 (A) Establish a procedure for applicants to file with the
32 California Film Commission a written application, on a form jointly
33 prescribed by the California Film Commission and the Franchise
34 Tax Board for the allocation of the tax credit. The application shall
35 include, but not be limited to, the following information:

36 (i) The budget for the motion picture production.

37 (ii) The number of production days.

38 (iii) A financing plan for the production.

39 (iv) The diversity of the workforce employed by the applicant,
40 including, but not limited to, the ethnic and racial makeup of the

1 individuals employed by the applicant during the production of
2 the qualified motion picture, to the extent possible.

3 (v) All members of a combined reporting group, if known at
4 the time of the application.

5 (vi) Financial information, if available, including, but not limited
6 to, the most recently produced balance sheets, annual statements
7 of profits and losses, audited or unaudited financial statements,
8 summary budget projections or results, or the functional equivalent
9 of these documents of a partnership or owner of a single member
10 limited liability company that is disregarded pursuant to Section
11 23038. The information provided pursuant to this clause shall be
12 confidential and shall not be subject to public disclosure.

13 (vii) The names of all partners in a partnership not publicly
14 traded or the names of all members of a limited liability company
15 classified as a partnership not publicly traded for California income
16 tax purposes that have a financial interest in the applicant's
17 qualified motion picture. The information provided pursuant to
18 this clause shall be confidential and shall not be subject to public
19 disclosure.

20 ~~(viii) Detailed narratives, for use only by the Legislative~~
21 ~~Analyst's Office in conducting a study of the effectiveness of this~~
22 ~~credit, that describe the extent to which the credit is expected to~~
23 ~~influence or affect filming and other business location decisions,~~
24 ~~hiring decisions, salary decisions, and any other financial matters~~
25 ~~of the applicant.~~

26 (viii) *The amount of qualified wages the applicant expects to*
27 *pay to qualified individuals. The information provided pursuant*
28 *to this clause shall be confidential and shall not be subject to public*
29 *disclosure.*

30 (ix) *The amount of tax credit requested not to exceed the*
31 *applicable credit percentage described in paragraph (4) of*
32 *subdivision (a). The information provided pursuant to this clause*
33 *shall be confidential and shall not be subject to public disclosure.*

34 (x) *A statement establishing that the tax credit described in this*
35 *section is a significant factor in the applicant's choice of location*
36 *for the qualified motion picture. The statement shall include*
37 *information about whether the qualified motion picture is at risk*
38 *of not being filmed or specify the jurisdiction or jurisdictions in*
39 *which the qualified motion picture will be located in the absence*

1 of the tax credit. The statement shall be signed by an officer or
2 executive of the applicant.

3 (ix)

4 (xi) Any other information deemed relevant by the California
5 Film Commission or the Franchise Tax Board.

6 (B) Establish criteria, consistent with the requirements of this
7 section, for allocating tax credits.

8 (C) Determine and designate applicants who meet the
9 requirements of this section.

10 ~~(D) (i) Except as provided in clauses (ii) and (iii), process and~~
11 ~~approve, or reject, all applications on a first-come-first-served~~
12 ~~basis.~~

13 ~~(ii) Any new television series, as described in clause (iii) of~~
14 ~~subparagraph (A) of paragraph (17) of subdivision (b), and any~~
15 ~~television series that relocated to California, as described in clause~~
16 ~~(v) of subparagraph (A) of paragraph (17) of subdivision (b), that~~
17 ~~has been approved and issued a credit allocation by the California~~
18 ~~Film Commission either under this section or Section 23685 shall~~
19 ~~be placed at the top of the queue for an open allocation period once~~
20 ~~in each subsequent year in the life of that television series whenever~~
21 ~~credits are allocated within a fiscal year.~~

22 ~~(iii) Any new television series based on a pilot for a new~~
23 ~~television series described in paragraph (9) of subdivision (b),~~
24 ~~where that pilot has been previously approved and issued a credit~~
25 ~~allocation by the California Film Commission under this section~~
26 ~~or Section 23685, shall be placed at the top of the queue for an~~
27 ~~open allocation period once in the initial and in each subsequent~~
28 ~~year in the life of that television series whenever credits are~~
29 ~~allocated within a fiscal year.~~

30 (D) (i) For purposes of allocating the credit amounts subject
31 to the categories described in subdivision (i) in any fiscal year,
32 the California Film Commission shall do all of the following:

33 (ii) For each allocation date and for each category, list each
34 applicant from highest to lowest according to the jobs ratio as
35 computed by the California Film Commission.

36 (iii) Subject to the applicable credit percentage, allocate the
37 credit to each applicant according to the highest jobs ratio,
38 working down the list, until the credit amount is exhausted.

39 (iv) Pursuant to regulations adopted pursuant to subdivision
40 (e), the California Film Commission may increase the jobs ratio

1 up to 10 percent for applications where 75 percent of the principal
2 photography days occur wholly in the state and 75 percent of the
3 production budget is incurred for payment for services performed
4 within the state and the purchase or rental of property used within
5 the state.

6 (v) Pursuant to regulations adopted pursuant to subdivision (e),
7 in addition to the jobs ratio increase authorized by clause (iv), the
8 California Film Commission may additionally increase the jobs
9 ratio up to 10 percent for applications that will use facilities in
10 the state for at least 75 percent of the postproduction.

11 (vi) Notwithstanding any other provision, any new television
12 series, relocating television series, or any new television series
13 based on a pilot for a new television series described in paragraph
14 (9) of subdivision (b), where that pilot has been previously
15 approved and issued a credit allocation by the California Film
16 Commission either under this section or Section 17053.95, shall
17 be issued a credit for each subsequent year in the life of that
18 television series whenever credits are allocated within a fiscal
19 year.

20 (vii) Subject to subparagraph (D) of paragraph (4) of
21 subdivision (a), the California Film Commission shall increase
22 the applicable credit percentage by 5 percent, not to exceed a
23 maximum of 25 percent, if the qualified motion picture paid or
24 incurred outside the Los Angeles zone the qualified expenditures
25 relating to original photography outside the Los Angeles zone.

26 (E) Subject to the annual cap ~~established as provided in~~ and
27 the allocation credit amounts based on categories described in
28 subdivision (i), allocate an aggregate amount of credits under this
29 section and Section 17053.95, and allocate any carryover of
30 unallocated credits from prior years *and the amount of any credits*
31 *reduced pursuant to paragraph (2) of subdivision (d).*

32 ~~(2)~~

33 (3) Certify tax credits allocated to qualified taxpayers.

34 (A) Establish a verification procedure for the amount of qualified
35 expenditures paid or incurred by the applicant, including, but not
36 limited to, updates to the information in subparagraph (A) of
37 paragraph ~~(1)~~ (2) of subdivision (g).

38 (B) Establish audit requirements that must be satisfied before
39 a credit certificate may be issued by the California Film
40 Commission.

1 (C) (i) Establish a procedure for a qualified taxpayer to report
2 to the California Film Commission, prior to the issuance of a credit
3 certificate, the following information:

4 (I) If readily available, a list of the states, provinces, or other
5 jurisdictions in which any member of the applicant's combined
6 reporting group in the same business unit as the qualified taxpayer
7 that, in the preceding calendar year, has produced a qualified
8 motion picture intended for release in the United States market.
9 For purposes of this clause, "qualified motion picture" shall not
10 include any episodes of a television series that were complete or
11 in production prior to July 1, 2016.

12 (II) Whether a qualified motion picture described in subclause
13 (I) was awarded any financial incentive by the state, province, or
14 other jurisdiction that was predicated on the performance of
15 primary principal photography or postproduction in that location.

16 (ii) The California Film Commission may provide that the report
17 required by this subparagraph be filed in a single report provided
18 on a calendar year basis for those qualified taxpayers that receive
19 multiple credit certificates in a calendar year.

20 (D) Issue a credit certificate to a qualified taxpayer upon
21 completion of the qualified motion picture reflecting the credit
22 amount allocated after qualified expenditures have been verified
23 *and the jobs ratio computed* under this section. The amount of
24 credit shown in the credit certificate shall not exceed the amount
25 of credit allocated to that qualified taxpayer pursuant to this section.

26 ~~(3)~~

27 (4) Obtain, when possible, the following information from
28 applicants that do not receive an allocation of credit:

29 (A) Whether the qualified motion picture that was the subject
30 of the application was completed.

31 (B) If completed, in which state or foreign jurisdiction was the
32 primary principal photography completed.

33 (C) Whether the applicant received any financial incentives
34 from the state or foreign jurisdiction to make the qualified motion
35 picture in that location.

36 ~~(4)~~

37 (5) Provide the Legislative Analyst's Office, upon request, any
38 or all application materials or any other materials received from,
39 or submitted by, the applicants, in electronic format when available,
40 including, but not limited to, information provided pursuant to

1 clauses (i) to ~~(ix)~~, (xi) inclusive, of subparagraph (A) of paragraph
2 ~~(1)~~; (2).

3 ~~(5)~~

4 (6) The information provided to the California Film Commission
5 pursuant to this section shall constitute confidential tax information
6 for purposes of Article 2 (commencing with Section 19542) of
7 Chapter 7 of Part 10.2.

8 (h) (1) The California Film Commission shall annually provide
9 the Legislative Analyst's Office, the Franchise Tax Board, and the
10 board with a list of qualified taxpayers and the tax credit amounts
11 allocated to each qualified taxpayer by the California Film
12 Commission. The list shall include the names and taxpayer
13 identification numbers, including taxpayer identification numbers
14 of each partner or shareholder, as applicable, of the qualified
15 taxpayer.

16 (2) (A) Notwithstanding paragraph ~~(5)~~ (6) of subdivision (g),
17 the California Film Commission shall annually post on its Internet
18 Web site and make available for public release the following:

19 (i) A table which includes all of the following information: a
20 list of qualified taxpayers and the tax credit amounts allocated to
21 each qualified taxpayer by the California Film Commission, the
22 number of production days in California the qualified taxpayer
23 represented in its application would occur, the number of California
24 jobs that the qualified taxpayer represented in its application would
25 be directly created by the production, and the total amount of
26 qualified expenditures expected to be spent by the production.

27 (ii) A narrative staff summary describing the production of the
28 qualified taxpayer as well as background information regarding
29 the qualified taxpayer contained in the qualified taxpayer's
30 application for the credit.

31 (B) Nothing in this subdivision shall be construed to make the
32 information submitted by an applicant for a tax credit under this
33 section a public record.

34 (3) The California Film Commission shall provide each city
35 and county in California with an instructional guide that includes,
36 but is not limited to, a review of best practices for facilitating
37 motion picture production in local jurisdictions, resources on
38 hosting and encouraging motion picture production, and the
39 California Film Commissions' Model Film Ordinance. The
40 California Film Commission shall maintain on its Internet Web

1 site a list of initiatives by locality that encourage motion picture
2 production in regions across the state. The list shall be distributed
3 to each approved applicant for the program to highlight local
4 jurisdictions that offer incentives to facilitate film production.

5 (i) (1) The aggregate amount of credits that may be allocated
6 ~~in~~ for any fiscal year pursuant to this section and Section 17053.95
7 shall be an amount equal to the sum of all of the following:

8 (A) *Three hundred million dollars (\$300,000,000) in credits for*
9 *the 2015–16 fiscal year.*

10 (A) ~~_____~~ dollars (\$~~_____~~)

11 (B) *Four hundred million dollars (\$400,000,000) in credits for*
12 *the 2016–17 fiscal year and each fiscal year thereafter, through*
13 *and including the 2020–21 2018–19 fiscal year.*

14 (B)

15 (C) The unused allocation credit amount, if any, for the
16 preceding fiscal year.

17 (C)

18 (D) The amount of previously allocated credits not certified.

19 (2) (A) ~~Notwithstanding the foregoing, the California Film~~
20 ~~Commission shall set aside the lesser of 10 percent of the amount~~
21 ~~specified in subparagraph (A) of paragraph (1) or twenty million~~
22 ~~dollars (\$20,000,000) of tax credits each fiscal year for independent~~
23 ~~films allocated in accordance with rules and regulations developed~~
24 ~~pursuant to subdivision (e).~~

25 (B) ~~Notwithstanding the foregoing, the California Film~~
26 ~~Commission shall set aside up to thirty million dollars~~
27 ~~(\$30,000,000) of tax credit each fiscal year for television series~~
28 ~~that relocated to California in its first year of receiving a tax credit~~
29 ~~allocation pursuant to this section allocated in accordance with~~
30 ~~rules and regulations developed pursuant to subdivision (e).~~

31 (E) *The amount of any credits reduced pursuant to paragraph*
32 *(2) of subdivision (d).*

33 (2) (A) *Notwithstanding the foregoing, the California Film*
34 *Commission shall allocate the credit amounts subject to the*
35 *following categories:*

36 (i) *Independent films shall be allocated 5 percent of the amount*
37 *specified in paragraph (1).*

38 (ii) *Features shall be allocated 35 percent of the amount*
39 *specified in paragraph (1).*

1 (iii) *Subject to clause (vi) of subparagraph (D) of paragraph*
2 *(2) of subdivision (g), a relocating television series shall be*
3 *allocated 20 percent of the amount specified in paragraph (1).*

4 (iv) *Subject to clause (vi) of subparagraph (D) of paragraph*
5 *(2) of subdivision (g), a new television series, pilots for a new*
6 *television series, movies of the week, miniseries, and recurring*
7 *television series shall be allocated 40 percent of the amount*
8 *specified in paragraph (1).*

9 (B) *Within 60 days after the allocation period, any unused*
10 *amount within a category or categories shall be apportioned to*
11 *another category or categories with a higher demand.*

12 (C) *Notwithstanding the foregoing, the California Film*
13 *Commission may increase or decrease an allocation amount in*
14 *subparagraph (A) by 5 percent, if necessary, due to the jobs ratio,*
15 *the number of applications, or the allocation credit amounts*
16 *available by category compared to demand.*

17 (3) *Any act that reduces the amount that may be allocated*
18 *pursuant to paragraph (1) constitutes a change in state taxes for*
19 *the purpose of increasing revenues within the meaning of Section*
20 *3 of Article XIII A of the California Constitution and may be*
21 *passed by not less than two-thirds of all Members elected to each*
22 *of the two houses of the Legislature.*

23 (j) *The California Film Commission shall have the authority to*
24 *allocate tax credits in accordance with this section and in*
25 *accordance with any regulations prescribed pursuant to subdivision*
26 *(e) upon adoption.*

27 SEC. 8. *The Legislature finds and declares that Sections 5 and*
28 *7 of this act impose a limitation on the public's right of access to*
29 *the meetings of public bodies or the writings of public officials*
30 *and agencies within the meaning of Section 3 of Article I of the*
31 *California Constitution. Pursuant to that constitutional provision,*
32 *the Legislature makes the following findings to demonstrate the*
33 *interest protected by this limitation and the need for protecting*
34 *that interest:*

35 *In order to allow the California Film Commission to fully*
36 *accomplish its goals, it is imperative to protect the interests of*
37 *those persons submitting information to the California Film*
38 *Commission to ensure that any personal or sensitive business*
39 *information that this act requires those persons to submit is*
40 *protected as confidential information.*

1 ~~SEC. 7.~~

2 *SEC. 9.* The provisions of this act are severable. If any
3 provision of this act or its application is held invalid, that invalidity
4 shall not affect other provisions or applications that can be given
5 effect without the invalid provision or application.

6 ~~SEC. 8.~~

7 *SEC. 10.* This act provides for a tax levy within the meaning
8 of Article IV of the Constitution and shall go into immediate effect.

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